

FILED

OCTOBER 25, 2010

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

In the Matter of:

LEE D. EISENBERG, M.D.

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* CONSENT ORDER
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This matter was opened before the New Jersey State Board of Medical Examiners (the "Board") upon receipt of a report from the Medical Practitioner Review Panel (the "Panel") detailing findings made by the Panel upon the completion of an investigation of respondent Lee D. Eisenberg, M.D. Specifically, the Panel commenced an investigation upon its receipt of a report detailing that a payment of \$400,000 had been made, on respondent's behalf, to settle a civil malpractice action in which it was alleged that respondent delayed in diagnosing laryngeal cancer when treating patient J.P., resulting in her death.

The Panel reviewed available information, to include medical records, expert reports prepared during the civil malpractice action, and testimony that respondent offered when he appeared before the Panel on January 22, 2010, represented by JoAnn Pietro, Esq. Upon review of available information, the Panel found that patient J.P. was referred to Dr. Eisenberg in December 2003, for evaluation of vocal cord paralysis. Dr. Eisenberg saw J.P. on two occasions in December 2003, and ordered a CT of the neck and skull base following the second visit on December 18, 2003. Upon ordering the CT scan, Dr. Eisenberg sent a letter to J.P.'s referring physician wherein he advised that he had ordered the scan, but then stated: "as I explained to [J.P.] and her daughter, I have never found a reason for a paralysis that I did not know of before I got the imaging, so, this is

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most likely viral."

Dr. Eisenberg received a report of the CT scan on December 22, 2003, which report detailed a finding of a right laryngeal soft tissue mass. Respondent testified that he read and initialed the report upon receipt, however then failed to recognize the significance of the finding of the mass in the larynx. Respondent instead advised the patient, or the patient's daughter, that the paralysis was caused by a viral process.

Respondent thereafter saw J.P. on two additional occasions in March and April 2004. Although J.P.'s symptoms had persisted, respondent failed to review the results of the prior CT scan either time. It was only upon ordering a repeat CT scan in June 2004 that respondent realized that he had misread the December 2003 CT scan results, and communicated the diagnosis of cancer to patient J.P. Respondent assisted in arranging an urgent consult with a head and neck surgeon. He is remorseful regarding the events.

The Board finds that respondent engaged in acts of negligence, to include his failure to have diagnosed J.P.'s cancer in December 2003, upon receiving the report detailing the findings of the CT scan, and his failure, in March and April 2004, to have reviewed the results of the CT scan when J.P. presented to his office with worsening symptoms. Based thereon, the Board concludes that basis for disciplinary action against respondent exists pursuant to N.J.S.A. 45:1-21 (d).

The parties desiring to resolve this matter without need for further disciplinary proceedings, and the Board being satisfied, based on respondent's testimony before the Panel, that he has instituted changes to his practice to avoid the possibility that similar events could recur, and the Board being further satisfied that good cause exists for the entry of the within Order,

IT IS on this 13th day of October, 2010

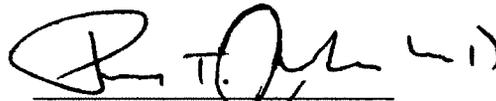
ORDERED and AGREED:

1. Respondent Lee D. Eisenberg is hereby formally reprimanded for having engaged in repeated acts of negligence, for the reasons detailed above.

2. Respondent Lee D. Eisenberg is assessed a civil penalty in the amount of \$5,000, to be paid in five installments of \$1,000. The first payment shall be made at the time of entry of this Order, and the remaining four payments shall each be made on or before the 15th of each of the four ensuing months (the final payment being due on or before February 15, 2011).

NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

By:



Paul T. Jordan, M.D.
Board President

I consent to the form of this Order
and to the entry of the Order by the
State Board of Medical Examiners

Lee D. Eisenberg, M.D.

Dated: _____

Consent given to the form and entry of
this Order

JoAnn Pietro, Esq.

IT IS on this 13th day of October, 2010

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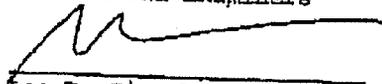
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NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

By:

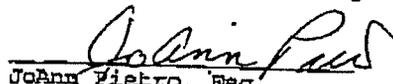

Paul T. Jordan, M.D.
Board President

I consent to the form of this Order and to the entry of the Order by the State Board of Medical Examiners


Lee D. Eisenberg, M.D.

Dated: 10/12/10

Consent given to the form and entry of this Order


JoAnn Pietro, Esq.